



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

November 8, 2022

REPLY TO THE ATTENTION OF:
SE-5J

FEDEX OVERNIGHT DELIVERY

Trust Number 3025 of Standard Bank and Trust Company of Hickory Hills
c/o First Midwest Bank, Trustee

Exemption 6 - PII

Trust Number 3025 of Standard Bank and Trust Company of Hickory Hills
c/o Michael H. Berkson, Trust Beneficiary

Exemption 6 - PII

Trust Number 3025 of Standard Bank and Trust Company of Hickory Hills
c/o Arnold J. Herbstman, Trust Beneficiary

Exemption 6 - PII

Re: Silbert Watch Company
1409 Dundee Avenue, Elgin, Kane County, Illinois 60120
Site/Spill Identifier (SSID): C5RG
General Notice of Potential Liability and Request for Information

Dear Trustee and Beneficiaries:

The U.S. Environmental Protection Agency (EPA) has documented the release or threat of release of hazardous substances, pollutants, and contaminants into the environment from the Silbert Watch Company Site (the Site) and is planning to spend public funds to control and investigate these releases. This action will be taken by EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601-9675 unless EPA determines that such action will be done properly by potentially responsible parties (PRPs). PRPs under CERCLA include the current and former owners and operators of the Site, as well as persons who arranged for disposal or treatment of hazardous substances sent to the site, or persons who accepted hazardous substances for transport to the Site. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), where EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs

associated with the removal action or remedial action and all other necessary costs incurred in cleaning up the Site, including investigation, planning, and enforcement costs.

EPA is currently planning to conduct the following actions at the Site:

1. Complete a Radiologic Site Assessment;
2. Develop and implement a Site Health and Safety Plan, including a site contingency plan, air monitoring plan, and develop measures to control hazardous substances during the removal action;
3. Develop and implement a site security plan;
4. Characterize, sample, and segregate, when possible, hazardous substances from waste not containing hazardous substances;
5. Remove, secure, stage, consolidate, package, transport, and dispose of identified hazardous substances, including radionuclides, and pollutants or contaminants at EPA-approved disposal facilities in accordance with EPA Off-Site Rule 40 C.F.R. 300.440; and
6. Implement post-removal site control consistent with the provisions of 40 C.F.R. § 300.415(l).

EPA has received information that Trust Number 3025 of Standard Bank and Trust Company of Hickory Hills (Trust) owned or operated at the Site or generated or transported hazardous substances that were disposed of at the Site. By this letter, EPA notifies Trust Number 3025 (you) of its potential liability with regard to this matter and encourages you, as a PRP, to agree to reimburse EPA for costs incurred to date and to voluntarily perform or finance the response activities that EPA has determined or will determine are required at the Site. EPA is willing to discuss with you the entry of an appropriate administrative consent order under which you would perform or finance response activities and reimburse EPA for its costs.

If a consent order cannot be promptly concluded, EPA may issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of EPA's costs, for statutory penalties, and for treble damages for noncompliance with such an order. If your organization is a qualified small business, enclosed is a *U.S. EPA Small Business Resources Information Sheet*, which may be helpful if your organization is subject to an EPA enforcement action.

Because of the conditions described above, EPA believes that response activities at the Site must be initiated as quickly as possible. Therefore, EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As a PRP, you should notify EPA in writing within fifteen (15) calendar days of receipt of this letter of your willingness to perform or finance the activities described above and to reimburse EPA for its costs. If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of its potential responsibility in connection with the Site and that you have declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address, and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in a voluntary cleanup action or involved in a lawsuit regarding the Site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

In addition, EPA is seeking to obtain certain other information from you pursuant to its authority under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), for the purpose of enforcing CERCLA and to assist in determining the need for response to a release of hazardous substance(s) under CERCLA. The Administrator of EPA has the authority to require any person who has or may have information relevant to any of the following to furnish EPA with such information: (a) the identification, nature or quantity of materials which have been or are generated, treated, stored or disposed of at, or transported to, a facility; (b) the nature or extent of a release or threatened release of a hazardous substance, pollutant or contaminant at or from a facility; and (c) the ability of a person to pay for or perform a cleanup. Pursuant to Section 104(e) of CERCLA, you are hereby requested to submit the following information concerning the Site:

1. Identify all persons consulted in the preparation of the answers to these requests.
2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these requests and provide copies of all such documents.
3. State the dates during which you owned, operated, or leased the Site.
4. Did you know about Radiological contamination at the Site prior to purchasing the property?
5. Did you acquire the parcels of the Site after the disposal or placement of the hazardous substances on, in, or at the Site? Describe all the facts on which you base the answer to the preceding question.
6. Describe all investigations of the Site you undertook prior to acquiring the Site and all the facts on which you base the answer to the preceding questions.
7. Identify and describe any spills, releases, fires, or other disposal that occurred at the Site, including the dates.

8. Provide all reports, information or data related to soil, water (ground and surface) or air quality or contamination and geology/hydrogeology at and about the Site. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data.

9. Did you or your consultants perform any demolition activities or investigations of the soil, water (ground or surface), geology, hydrology or air quality on or about the Site? If so, identify and provide copies of the investigation documents:

10. Has soil ever been excavated, moved, or removed from the Site? Unless the answer to this question is anything besides an unequivocal "no," identify:

- (a) Amount of soil excavated;
- (b) Location of excavation;
- (c) Manner and place of disposal and/or storage of excavated soil;
- (d) Dates of soil excavation;
- (e) Identity of persons who excavated or removed the soil;
- (f) Reason for soil excavation;
- (g) Whether the excavation or removed soil contained hazardous materials and why the soil contained such materials; and
- (h) All analyses or tests and results of analyses of the soil that was removed from the Site.

11. For the Standard Bank and Trust Company of Hickory Hills Trust Number 3025:

- (a) State the form of Trust (e.g., nominee trust, pour-over trust, real estate trust, donative trust etc.) and the specified state legal authority under which the Trust was formed (e.g., [state e.g., MA] General Laws Chapters [182 or 203], etc.);
- (b) State the year the Trust was created;
- (c) If the Trust no longer exists, state: (1) the year the Trust was terminated, dissolved, or liquidated; (2) to whom the assets of the trust were distributed; (3) the net worth of the Trust at the time of termination; and (4) the dollar value of the assets distributed to each party;
- (d) Briefly state the nature of the Trust's activities and purposes;
- (e) List and identify all beneficiaries of the Trust;
- (f) List and identify all trustees, administrators, or other fiduciaries of the Trust, and state the period during which each one served in that capacity;
- (g) Provide copies of the Declaration of Trust and any other documents that memorialize or evidence the creation of the Trust and provide copies of all amendments to the Trust;
- (h) Provide a description of all real estate currently owned by the Trust (all shared interests

such as co-ownership, partnership, or other types of property interests), including: location and address; nature of interest; and date when the property was purchased;

12. List all bank accounts for the Trust, including the name and address of each banks, the account numbers, and the years such accounts were active.
13. Provide copies of all state and federal tax returns (income tax, gift tax, estate tax, or other) for each of the Trusts from 2018 to the present.
14. Identify and provide copies of all income statements for the Trust.
15. Identify and provide copies of all income statements, rust statements of cash flow, financial statements, financial reports, and financial projections (whether audited or unaudited), including accompanying footnotes and auditor's reports, that were prepared by, for, or on behalf of the Trust, trustees, or beneficiaries for the Trust.
16. Identify those individuals and entities who performed the accounting functions, or who prepared journals, work papers, financial statements or tax returns, or performed similar functions for the Trust.
17. Provide a list of all property and casualty insurance (e.g., comprehensive general liability, environmental impairment) and specify the insurer, policy, effective dates and per occurrence policy limits for each policy for the time period the Trust owned the property. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.

To assist you in answering this request, the information sought pertains to all information in your possession, custody or control relating to the operation of the Site and to the transportation, storage and/or disposal of hazardous substances or the generation of hazardous substances that were ultimately disposed of or offered for disposal at the Site.

This request is directed to you, your officers, directors and employees and your subsidiaries, divisions, facilities and its officers, directors, and employees. The information sought herein must be sent to EPA within thirty (30) calendar days of your receipt of this letter. Failure to respond fully and truthfully to this request, or to adequately justify any failure to respond, may result in an enforcement action against you by EPA under Section 104 of CERCLA, as amended. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may request however, that any such information be handled as confidential business information. A request for confidential treatment must be made when the information is provided, since any information not so identified will not be accorded this protection by EPA. Information claimed as confidential will be handled in accordance with the provisions of Section 104(e) of CERCLA, Section 3007(b) of the Resource Conservation and Recovery Act or 40 C.F.R. Section 2.203(b).

The written statements submitted pursuant to this request must be submitted under an authorized signature certifying that all information contained therein is true and accurate to the best of the

signatory's knowledge and belief. Moreover, any documents submitted to EPA pursuant to this information request should be certified as true and authentic to the best of the signatory's knowledge and belief. Should the signatory find, at any time after the submittal of the requested information, that any portion of the submitted information is false, the signatory should so notify EPA. If any answer certified as true should be found to be untrue, the signatory can and may be prosecuted pursuant to 18 U.S.C. § 1001. EPA has the authority to use the information requested herein in any administrative, civil, or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq.

If you have specific questions about the Information Request or if you are unable to respond in a timely fashion because of impacts related to the COVID-19 pandemic please contact Donald R. Schwer III, Enforcement Investigator, at (312) 353-8752 or at schwer.don@epa.gov, explaining the specific impacts on your ability to respond.

To the extent possible, you are strongly encouraged to use email to submit your response. If your response is too large to be submitted over email, please contact Donald R. Schwer III, Enforcement Investigator, to make additional arrangements for submitting your response. You must respond to the notice of potential liability within fifteen (15) calendar days and to the information requests within thirty (30) calendar days. The responses should be addressed to:

Donald R. Schwer III, Enforcement Investigator
U.S. Environmental Protection Agency, Region 5
Superfund & Emergency Management Division
Enforcement Support Section, SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

If you have additional questions about the history of the Site, the nature of the environmental conditions at the Site or the status of cleanup activities, please contact James Mitchell, On-Scene Coordinator, at (312) 353-9537 or at mitchell.james@epa.gov. If you have any legal questions, please contact Maria Gonzalez, Associate Regional Counsel, at (312) 886-6630 or at gonzalez.maria@epa.gov.

Due to the nature of the problem at the Site and the attendant legal ramifications, EPA strongly encourages you to submit a response within the time frames specified herein.

We hope you will give this matter your immediate attention.

Sincerely,

11/8/2022

X 

Samuel Borries, Manager
Emergency Response Branch 2
Signed by: SAMUEL BORRIES

cc: Paul Lake, Manager
Illinois EPA Bureau of Land
Federal Site Remediation Section
1021 North Grand Avenue East
Springfield, Illinois 62794

Silbert Watch Company Site

List of Potentially Responsible Parties

Sent General Notice of Potential Liability & Request for Information Letter

Stacy Construction Co.
William A. Hertz, President

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Habitat For Humanity of Northern Fox Lake Valley
Helmut E. Gerlach, Resident Agent

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Church of the Brethren
David A. Steele, General Secretary
1451 Dundee Avenue
Elgin, Illinois 60120

Trust Number 3025 of Standard Bank and Trust Company of Hickory Hills
First Midwest Bank, Trustee

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Trust Number 3025 of Standard Bank and Trust Company of Hickory Hills
Michael H. Berkson, Trust Beneficiary

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Trust Number 3025 of Standard Bank and Trust Company of Hickory Hills
Arnold J. Herbstman, Trust Beneficiary

Exemption 6 - PII

Silbert Watch Company Site
Elgin, Kane County, Illinois

bcc: Maria Gonzalez, ORC (C-14J)
James Mitchell, ERB 2 (SE-5J)
Donald Schwer, ESS (SE-5J)
Carolyn Bohlen, ESS (SE-5J)
Gerri Pete, ESS (SE-5J)
John Maritote, ERS 4 (SE-5J)
Rick Hackley, PAAS (MF-10J)
Todd Quesada, MSD (SRC-7J)

Ms. Valencia Darby
U.S. Department of the Interior
Office of Environmental Policy and Compliance
U.S. Custom House, Room 244
200 Chestnut Street
Philadelphia, Pennsylvania 19106

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

<https://www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu>

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

<https://www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman> or 1-800-368-5888

The ASBO helps make technical resources on environmental regulations, asbestos, and compliance assistance information more accessible, while encouraging communication and partnerships with small business on regulatory compliance, and to address asbestos-related questions from the public.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

<https://www.epa.gov/compliance>

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

<https://www.complianceassistance.net/>

EPA-sponsored Compliance Assistance Centers provide the information you need, in a way that helps make sense of environmental regulations. Each Center addresses real world issues faced by a specific industry or government sector. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

<https://www.epa.gov/agriculture>

Automotive Recycling

<http://www.ecarcenter.org>

Automotive Service and Repair

<https://ccar-greenlink.org/> or 1-888- 476-5465

Beneficial Use

<https://www.beneficialuse.org/>

Construction

<https://www.cicacenter.org/>

Education

<https://www.nacubo.org/>

Hazardous Waste Portal

<https://www.hazwasteportal.org/>

Healthcare

<http://www.hercenter.org>

Local Government

<https://www.lgean.net/>

Oil/Natural Gas Energy Extraction

<https://www.eciee.org/>

Paints and Coatings

<https://www.paintcenter.org/>

Ports

<https://www.portcompliance.org/>

Surface Technology Environmental Resource Center (STERC)

<https://sterc.org/>

Transportation

<https://www.tercenter.org/>

U.S. Border Compliance and Import/Export Issues

<https://www.bordercenter.org/>

Veterinary Care

<https://vetca.org/>

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 919-541-0800

Superfund, TRI, EPCRA, RMP and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil or hazardous substance spills

<https://nrc.uscg.mil/>; NRC@uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

ppic@epa.gov or 202-566-0799

Safe Drinking Water Hotline

safewater@epa.gov or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/srl/

The Locators provide state-specific information on regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

<https://www.epa.gov/tribal>

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has several such policies that may apply to small businesses. More information is available at:

- **EPA's Small Business Compliance Policy**
<https://www.epa.gov/compliance/small-business-compliance>
- **EPA's Audit Policy**
www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a Small Business Administration (SBA) National Ombudsman and 10 Regional Fairness Boards to receive comments from small business about federal agency enforcement actions.

If you believe that you fall within the SBA's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, you can call the SBA National Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or submit a comment online at: <https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman>.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions, or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes, including the right to take emergency remedial actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.